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Attorneys for Plaintiff  
Leupold & Stevens, Inc.

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

LEUPOLD & STEVENS, INC.,

Plaintiff / Counterclaim-Defendant,

v.

LIGHTFORCE USA, INC. d/b/a  
NIGHTFORCE OPTICS and  
NIGHTFORCE USA,

Defendant / Counterclaimant.

No. 3:16-cv-1570-HZ

**NOTICE OF  
PROPOSALS RE CASE SCHEDULE**

In response to the Court's Order (ECF # 212) the parties have conferred and submit the following joint scheduling proposal to maintain the existing pretrial conference and trial dates, with one point of disagreement for the Court's consideration.

<b>Event</b>	<b>Current Date</b>	<b>Proposed Date</b>
Any Leupold expert report or further disclosures re Doctrine of Equivalents infringement ('907 Patent) <sup>1</sup>	--	January 31, 2020
Depositions of hybrid fact/expert witnesses Klaus Johnson and Kevin Stockdill	February 5-6, 2020	February 5-6, 2020
Any Nightforce responsive expert rebuttal report or disclosures re doctrine of equivalents infringement	--	February 19, 2020
Any Leupold expert report in rebuttal to Johnson/Stockdill opinions	--	February 14, 2020
Continued Deposition of David Byron re '907 Patent	--	February 21, 2020
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Expert Motions ( <i>and Nightforce Proposes: DOE Motions</i> ) <sup>2</sup>	February 11, 2020	March 2, 2020
Expert (and DOE) Responses	February 25, 2020	March 16, 2020
Expert (and DOE) Replies	March 10, 2020	March 26, 2020
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First Wave of Pretrial Filings	March 16, 2020	March 23, 2020
Second Wave of Pretrial Filings	March 23, 2020	April 2, 2020
Third Wave of Pretrial Filings	March 30, 2020	April 13, 2020
Final Wave of Pretrial Filings	April 1, 2020	April 20, 2020
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Final Pretrial Conference	May 11, 2020	May 11, 2020
Start of Trial	May 19, 2020	May 19, 2020

<sup>1</sup> Nightforce reserves all rights on Leupold's new DOE theory that has not yet been fully disclosed or developed. Nightforce contends that it should have an opportunity to challenge any DOE theory as failing as a matter of law in view of several legal bars to DOE assertion, which are for the Court as a threshold gating matter before any such theory could be presented to the jury at trial. Nightforce proposes any such pretrial challenge to Leupold's DOE theory be briefed on the same schedule as expert motions.

<sup>2</sup> Leupold does not believe that separate, summary judgment style briefing on infringement under the doctrine of equivalents ("DOE") is necessary or appropriate, especially since DOE issues turn on the Court's forthcoming claim constructions. Leupold currently asserts potential DOE infringement only as to the two new claim construction disputes that Nightforce raised after the '907 Patent summary judgment determination (*i.e.*, the "projecting outwardly" and "spiraling outwardly" disputes). The Court has previously ruled that it does not plan to entertain new summary judgment motions on new post-summary judgment issues. If Nightforce's new claim construction disputes are resolved in Leupold's favor, Leupold does not expect it to be necessary to address DOE. If not, Nightforce's arguments on DOE can best be resolved at the pretrial conference, with the context of the Court's claim construction decisions. Leupold has no objection, however, if Nightforce elects to address any DOE issues in the allotted pages of expert briefing.

DATED this 31st day of January, 2020.

Respectfully submitted,

STOEL RIVES LLP

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing was served via electronic mail with a copy by United States mail, first-class, postage-prepaid, as follows:

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DATED this 31st day of January, 2020.      STOEL RIVES LLP

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